

**IN THE UNITED STATE DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**DONNA OHSANN,**

**Plaintiff,**

**vs.**

**L. V. STABLER HOSPITAL and  
COMMUNITY HEALTH SYSTEM  
PROFESSIONAL SERVICES  
CORPORATION,**

**Defendants.**

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**CIVIL ACTION NO.**

**2:07-cv-00875-WKW**

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**SECOND NOTICE OF SERVICE OF SUBPOENAS PURSUANT TO  
RULES 34 AND 45, FED.R.CIV.P.**

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Defendants, Greenville Hospital Corporation d/b/a L. V. Stabler Memorial  
Hospital and Community Health System Professional Services Corporation,  
pursuant to Rule 45, Fed.R.Civ.P., hereby give notice of the service of the  
subpoenas attached as Exhibit A.

s/ David B. Walston

Attorney for Defendants Greenville Hospital  
Corporation d/b/a L.V. Stabler Memorial  
Hospital and Community Health Systems  
Professional Services Corporation

**OF COUNSEL:**

CHRISTIAN & SMALL, LLP  
505 North 20th Street  
1800 Financial Center  
Birmingham, Alabama 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this Notice was served on the following in accordance with the electronic filing procedures established the United States District Court for the Middle District of Alabama, on this July 30, 2008:

David R. Arendall, Esq.  
Allen D. Arnold, Esq.  
ARENDALL & ASSOCIATES  
2018 Morris Avenue  
Birmingham, AL 35203

/s/ David B. Walston  
Of Counsel

**IN THE UNITED STATE DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**DONNA OHSANN,**

**Plaintiff,**

**vs.**

**L. V. STABLER HOSPITAL and  
COMMUNITY HEALTH SYSTEM  
PROFESSIONAL SERVICES  
CORPORATION,**

**Defendants.**

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**CIVIL ACTION NO.**

**2:07-cv-00875-WKW**

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**EXHIBIT A TO SECOND NOTICE OF SERVICE OF SUBPOENAS  
PURSUANT TO RULES 34 AND 45, FED.R.CIV.P.**

---

s/ David B. Walston

Attorney for Defendants Greenville Hospital  
Corporation d/b/a L.V. Stabler Memorial  
Hospital and Community Health Systems  
Professional Services Corporation

**OF COUNSEL:**

CHRISTIAN & SMALL, LLP  
505 North 20th Street  
1800 Financial Center  
Birmingham, Alabama 35203-2696  
Telephone: (205) 795-6588  
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**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Baptist Healthcare d/b/a LifeFlight  
Attn: Custodian of Records  
P.O. Box 17500  
1000 West Moreno Street  
Pensacola, FL 35201

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

Any and all documents related to **Donna Lynn Ohsann's** employment (**aka Donna Lynn Smith; Donna Lynn Bennett; SSN:418-04-xxxx**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service,

more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to

- provide written notice to the individual ...;
- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - (1) No objections were filed; or
    - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203



**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: LifePoint Hospitals, Inc.  
Attn: Custodian of Records  
103 Powell Court, Suite 200  
Brentwood, TN 37027

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

Any and all documents related to **Donna Lynn Ohsann's** employment (**aka Donna Lynn Smith; Donna Lynn Bennett; SSN: 418-04-xxxx**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary

Such production and inspection is to take place where the documents are regularly kept or

at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is

employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

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(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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(e) *Standard disclosures for judicial and administrative proceedings.*

(1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:

(A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;

- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
- (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
  - (1) No objections were filed; or
  - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

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3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

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- (2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

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By: David B. Walston  
Attorney for Defendants

OF COUNSEL:  
CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
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<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
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<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Andalusia Regional Hospital  
Attn: Custodian of Records  
P.O. Box 760  
849 South Three Notch Street  
Andalusia, AL 36420

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

Any and all documents related to **Donna Lynn Ohsann's** employment (**aka Donna Lynn Smith; Donna Lynn Bennett; SSN: 418-04-xxxx**), whether included in her personnel file or otherwise, including, but not limited to,

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(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

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more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
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(B) If a subpoena

- (i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
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- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
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    - (A) The party requesting such information has made a good faith attempt to



- provide written notice to the individual ...;
- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - (1) No objections were filed; or
    - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

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1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
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Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

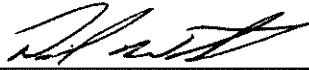
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You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Gilliard Health Services, Inc.  
Attn: Custodian of Records  
P.O. Box 11809  
3091 Carter Hill Road  
Montgomery, AL 36111

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

Any and all documents related to **Donna Lynn Ohsann's** employment (**aka Donna Lynn Smith; Donna Lynn Bennett;SSN:418-04-xxxx**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service,

more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to

- provide written notice to the individual ...;
- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - (1) No objections were filed; or
    - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

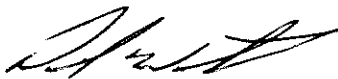
(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.

  
\_\_\_\_\_  
By: David B. Walston  
Attorney for Defendants

OF COUNSEL:  
CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court  
  
By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203



**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Evergreen Medical Center  
Attn: Custodian of Records  
P.O. Box 706  
101 Crestview Ave.  
Evergreen, AL 36401

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

Any and all documents related to **Donna Lynn Ohsann's** employment (**aka Donna Lynn Smith; Donna Lynn Bennett; 418-04-xxxx**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary



Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service,

more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to

- provide written notice to the individual ...;
- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - (1) No objections were filed; or
    - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**


(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

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\_\_\_\_\_  
By: David B. Walston  
Attorney for Defendants

OF COUNSEL:  
CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court  
  
By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Jeff Davis Community College  
Attn: Custodian of Records  
P.O. Box 958  
Brewton, AL 36427

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Donna Ohsann (aka Donna Lynn Smith; Donna Lynn Bennett); SSN 418-04-xxxx.**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

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(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

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(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the



expert's study made not at the request of any party, or

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    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
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**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

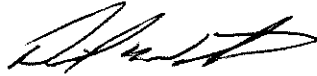
(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

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By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Sparta Academy  
Attn: Custodian of Records  
300 Pierce Street  
Evergreen, AL 36401

You are hereby commanded at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Donna Ohsann (aka Donna Lynn Smith; Donna Lynn Bennett); SSN 418-04-XXXX.**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that

subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

### **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

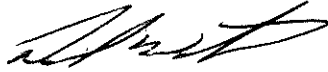
**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.



---

David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

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PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN,	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Alabama Board of Nursing  
Attn: Custodian of Records  
RSA Plaza, Suite 250  
770 Washington Ave.  
Montgomery, AL 36104

You are hereby commanded at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete licensing file, including, but not limited to, licensing applications, continuing education transcripts, examinations, reported violations by employers or consumers in any form, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Donna Lynn Ohsann (aka Donna Lynn Smith; Donna Lynn Bennett); License No: 1-074377.**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or



(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

(e) *Standard disclosures for judicial and administrative proceedings.*

(1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:

(A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;

(B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and

- (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
- (1) No objections were filed; or
  - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

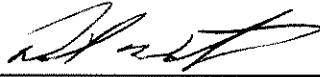
(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party**

**causing the issuance of this subpoena of the reasonable costs of the making of such copies.**  
The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.



---

David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

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PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: E911 Butler County  
Attn: Custodian of Records  
1000 S. Conecuh Street  
Greenville, AL 36037

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena:

**That you produce and permit said Defendant to inspect and copy each of the following documents:**

Any and all documents related to **Rose Marie Phillips-Williams'** employment (**aka Rose Marie Brewer, Rose Marie Merritt, Rose Marie Philips;SSN: xxx-xx-6462**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service,

more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

(e) *Standard disclosures for judicial and administrative proceedings.*

(1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:

(A) The party requesting such information has made a good faith attempt to

- provide written notice to the individual ...;
- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - (1) No objections were filed; or
    - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.



**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: St. Jude Children's Research Hospital  
Attn: Custodian of Records  
322 North Lauderdale  
Memphis, TN 38105

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena:

**That you produce and permit said Defendant to inspect and copy each of the following documents:**

Any and all documents related to **Rose Marie Phillips-Williams'** employment (**aka Rose Marie Brewer, Rose Marie Merritt, Rose Marie Philips;SSN: xxx-xx-6462**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service,

more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

(e) *Standard disclosures for judicial and administrative proceedings.*

(1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:

(A) The party requesting such information has made a good faith attempt to

- provide written notice to the individual ...;
- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - (1) No objections were filed; or
    - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No. CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Case Western Reserve University  
Attn: Custodian of Records  
10900 Euclid Ave.  
Cleveland, OH 44106

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena:

**That you produce and permit said Defendant to inspect and copy each of the following documents:**

Any and all documents related to **Rose Marie Phillips-Williams'** employment (**aka Rose Marie Brewer, Rose Marie Merritt, Rose Marie Philips; SSN: xxx-xx-6462**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary



Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service,

more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to

- provide written notice to the individual ...;
- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - (1) No objections were filed; or
    - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Cleveland Restoration Society  
Attn: Human Resources  
3751 Prospect Ave.  
Cleveland, OH 44115

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena:

**That you produce and permit said Defendant to inspect and copy each of the following documents:**

Any and all documents related to **Rose Marie Phillips-Williams'** employment (**aka Rose Marie Brewer, Rose Marie Merritt, Rose Marie Philips;SSN: xxx-xx-6462**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service,



more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to



- provide written notice to the individual ...;
- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - (1) No objections were filed; or
    - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.


**Duties in Responding to Subpoena:**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.

  
\_\_\_\_\_  
By: David B. Walston  
Attorney for Defendants

OF COUNSEL:  
CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Community College of the Air Force  
Attn: Custodian of Records  
130 West Maxwell Blvd.  
Maxwell AFB, AL 36112-6613

You are hereby commanded at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Rose Marie Phillips-Williams (aka Rose Marie Brewer, Rose Marie Merritt, Rose Marie Philips;SSN: xxx-xx-6462).**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that

subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

### **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.



---

David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

---

PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203



IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: University of Maryland  
Office of Registrar  
First Floor Mitchell Building  
College Park, MD 20742

You are hereby commanded at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Rose Marie Phillips-Williams (aka Rose Marie Brewer, Rose Marie Merritt, Rose Marie Philips;SSN: xxx-xx-6462).**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that

subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

### **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...
- (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
  - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
- (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
  - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
  - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - (1) No objections were filed; or
    - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

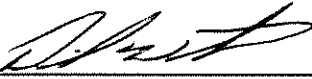
**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.



David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No. CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Southwest Tennessee Community College  
Attn: Custodian of Records  
P.O. Box 780  
Memphis, TN 38101

You are hereby commanded at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Rose Marie Phillips-Williams (aka Rose Marie Brewer, Rose Marie Merritt, Rose Marie Philips; SSN: xxx-xx-6462).**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that

subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or



- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

### **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.



---

David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

---

PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: University of Phoenix - Memphis  
Attn: Custodian of Records  
65 Germantown Court, Suite 100  
Cordova, TN 38018

You are hereby commanded at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Rose Marie Phillips-Williams (aka Rose Marie Brewer, Rose Marie Merritt, Rose Marie Philips;SSN: xxx-xx-6462).**

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(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

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(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
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In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
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Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

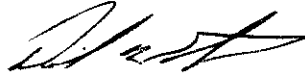
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---

David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

---

PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Sacred Heart Hospital  
Attn: Custodian of Records  
Sacred Heart Health System  
9th and Bayou Blvd.  
Pensacola, FL32526

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

Any and all documents related to **Vicki Lynn Crase's** employment (**aka Vicki Lynn Harris, SSN: 431-13-3902**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service,

more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to

- provide written notice to the individual ...;
- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - (1) No objections were filed; or
    - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

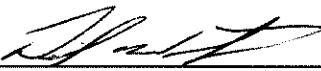
**Duties in Responding to Subpoena:**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.

  
\_\_\_\_\_  
By: David B. Walston  
Attorney for Defendants

OF COUNSEL:  
CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Crenshaw Baptist Hospital  
Attn: Custodian of Records  
101 Baptist Lane  
Luverne, AL 36049

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

Any and all documents related to **Vicki Lynn Crase's** employment (**aka Vicki Lynn Harris, SSN: 431-13-3902**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary

Such production and inspection is to take place where the documents are regularly kept or



at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is

employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

(e) *Standard disclosures for judicial and administrative proceedings.*

(1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:

(A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;

- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
- (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
  - (1) No objections were filed; or
  - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.


**Duties in Responding to Subpoena:**

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.

  
\_\_\_\_\_  
By: David B. Walston  
Attorney for Defendants

OF COUNSEL:  
CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court  
  
By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: George Wallace College  
Attn: Custodian of Records  
1141 Wallace Drive  
Dothan, AL 36303

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Vicki Lynn Crase (aka Vicki Lynn Harris, SSN: 431-13-3902)**.

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose

upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the



expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:



1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

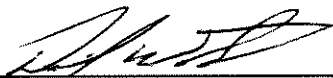
(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.

  
\_\_\_\_\_  
By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Reid State Technical College  
Attn: Custodian of Records  
165 and Highway 83  
Evergreen, AL 36401

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Vicki Lynn Crase (aka Vicki Lynn Harris, SSN: 431-13-3902)**.

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose

upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the

expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

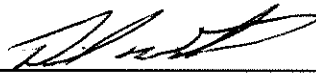
(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203



IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Alabama Board of Nursing  
Attn: Custodian of Records  
RSA Plaza, Suite 250  
770 Washington Ave.  
Montgomery, AL 36104

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena:

**That you produce and permit said Defendant to inspect and copy each of the following documents:**

The full and complete licensing file, including, but not limited to, licensing applications, continuing education transcripts, examinations, reported violations by employers or consumers in any form, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Vicki Lynn Crase (aka Vicki Lynn Harris); License No: 1-066402.**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research,

development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

### **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

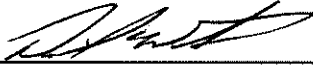
(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Florida Dept. Of Health  
Division of Medical Quality Assurance  
Central Records Unit, Bin C01  
4052 Bald Cypress Way  
Tallahassee, FL 32399-3251

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena:

**That you produce and permit said Defendant to inspect and copy each of the following documents:**

The full and complete licensing file, including, but not limited to, licensing applications, continuing education transcripts, examinations, reported violations by employers or consumers in any form, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Vicki Lynn Crase (aka Vicki Lynn Harris); License No: 3350792.**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research,



development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

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- (e) *Standard disclosures for judicial and administrative proceedings.*
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  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
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      - (1) No objections were filed; or
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3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

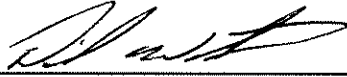
(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

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By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: CATO Fashions  
Attn: Custodian of Records  
212 Interchange Drive  
Fulton, MS 388843

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

Any and all documents related to **Katie Ann Thomas'** employment (**aka Katie Ann Osborn, SSN: 428-55-0993**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary

Such production and inspection is to take place where the documents are regularly kept or

at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is

employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

(e) *Standard disclosures for judicial and administrative proceedings.*

(1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:

(A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;

- (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
- (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
  - (1) No objections were filed; or
  - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.



**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies. The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.**

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Itawamba Community College  
Attn: Custodian of Records  
602 West Hill Street  
Fulton MS 38843

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Katie Ann Thomas (aka Katie Ann Osbirn, SSN: 428-55-0993).**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose

upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the

expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Itawamba Agricultural High School  
Attn: Custodian of Records  
11900 Highway 25 South  
Fulton MS 38843

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Katie Ann Thomas (aka Katie Ann Osborn, SSN: 428-55-0993)**.

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose



upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the

expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

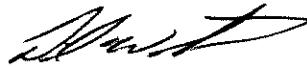
(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Alabama Board of Nursing  
Attn: Custodian of Records  
RSA Plaza, Suite 250  
770 Washington Ave.  
Montgomery, AL 36104

You are hereby commanded at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete licensing file, including, but not limited to, licensing applications, continuing education transcripts, examinations, reported violations by employers or consumers in any form, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Katie Ann Thomas (aka Katie Ann Osbirn); License No: 2-057402.**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall

take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

### **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance



Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

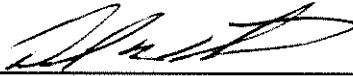
(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Alabama Board of Nursing  
Attn: Custodian of Records  
RSA Plaza, Suite 250  
770 Washington Ave.  
Montgomery, AL 36104

You are hereby commanded at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete licensing file, including, but not limited to, licensing applications, continuing education transcripts, examinations, reported violations by employers or consumers in any form, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Theresa Carter; License No: 1-080925.**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall

take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

### **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance

Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

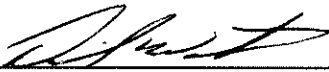
(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.

  
\_\_\_\_\_  
By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203



**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Baptist Medical Center South  
Attn: Custodian of Records  
2105 East South Boulevard  
Montgomery, AL 36116

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

Any and all documents related to **Jessica Bennett's** employment (**aka Jessica Pouncy, SSN: 416-31-6612**), whether included in her personnel file or otherwise, including, but not limited to,

- Applications for employment
- Resumes
- References
- Recommendations
- Employment verifications
- Background checks
- Credit checks
- Criminal background checks
- Compensation
- Benefits
- Counseling, corrective or disciplinary action
- Documents pertaining to relationships with other employees
- Separation from employment, whether voluntary or involuntary

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible**

**copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the

provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

(e) *Standard disclosures for judicial and administrative proceedings.*

(1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:

(A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;

(B) The notice included sufficient information about the litigation or proceeding

- in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
- (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
- (1) No objections were filed; or
  - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at**

**Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: University of Alabama  
Attn: Office of Registrar  
206 Student Services Center  
P.O. Box 870134  
Tuscaloosa, AL 35487-0134

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Jessica Bennett (aka Jessica Pouncy, SSN: 416-31-6612)**.

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that

subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information



not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:...
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
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      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

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following satisfactory assurances:

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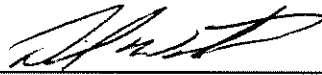
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By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

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505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Reid State Technical College  
Attn: Custodian of Records  
165 and Highway 83  
Evergreen, AL 36401

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Jessica Bennett (aka Jessica Pouncy, SSN: 416-31-6612)**.

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose

upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the

expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

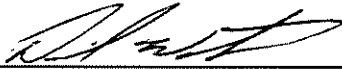
(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.





By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA**

<b>DONNA OHSANN;</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	<b>Case No.CV 07-00875</b>
<b>vs.</b>	)	
	)	
<b>L.V. STABLER HOSPITAL, et al.,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Lurleen B. Wallace Community College  
Attn: Office of Admissions and Records  
P.O. Box 1418  
Andalusia, AL 36420

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Jessica Bennett (aka Jessica Pouncy, SSN: 416-31-6612)**.

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose

upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the

expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.



By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Sparta Academy  
Attn: Custodian of Records  
300 Pierce Street  
Evergreen, AL 36401

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Jessica Bennett (aka Jessica Pouncy, SSN: 416-31-6612)**.

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upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

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(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

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(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the

expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
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  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
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1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
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3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

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By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Jeff Davis Community College  
Attn: Custodian of Records  
P.O. Box 958  
Brewton, AL 36427

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena, that you produce and permit said Defendant to inspect and copy each of the following documents:

The full and complete academic records, including, but not limited to, applications, transcripts, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Jessica Bennett (aka Jessica Pouncy, SSN: 416-31-6612)**.

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

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upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires a disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the



expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued, shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## **HIPAA PRIVACY RULES' ASSURANCES**

45 C.F.R. § 164.512 provides as follows:

- (e) *Standard disclosures for judicial and administrative proceedings.*
- (1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:
  - (ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:
    - (A) The covered entity received satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or...
  - (iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documents demonstrating that:
    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
    - (C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
      - (1) No objections were filed; or
      - (2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

In accordance with the Federal Privacy Rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:



1. We have made a good faith attempt to provide the patient, either through his/her counsel or directly, with a copy of this Civil Subpoena, by depositing same in the United States mail, properly addressed and postage prepaid.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is requested to permit the patient, either through his/her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the patient have been resolved.

Accordingly, following service of the Civil Subpoena you may disclose the requested information in compliance with the HIPAA Privacy Rules.

**Duties in Responding to Subpoena:**


(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

**You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents.

For your information, Alabama law restricts the charges for medical records as follows: Retrieval fee, \$5.00; 1st 25 pages, \$1.00 per page; pages 26 and over, \$.50 per page; x-rays and other radiographic images are limited to the actual cost of reproduction.

  
\_\_\_\_\_  
By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

DONNA OHSANN;	)	
	)	
PLAINTIFF,	)	
	)	Case No.CV 07-00875
vs.	)	
	)	
L.V. STABLER HOSPITAL, et al.,	)	
	)	
DEFENDANT	)	

**CIVIL SUBPOENA FOR PRODUCTION  
OF DOCUMENTS UNDER RULES 34(c) and 45**

TO: Alabama Board of Pharmacy  
Attn: Custodian of Records  
10 Inverness Center, Suite 110  
Birmingham, AL 35242-4811

You are hereby commanded, at the instance of the Defendant, L.V. Stabler Hospital, within fifteen (15) days after service of this subpoena:

**That you produce and permit said Defendant to inspect and copy each of the following documents:**

The full and complete licensing file, including, but not limited to, licensing applications, continuing education transcripts, examinations, reported violations by employers or consumers in any form, disciplinary or reprimand reports and records, attendance records, correspondence, memoranda, notes, computer data or compilations or reports and all other forms of documents pertaining to **Jessica Bennett (aka Jessica Pouncy); License No: T19714.**

Such production and inspection is to take place where the documents are regularly kept or at some other reasonable place designated by you. **You have the option to deliver or mail legible copies of documents to David Walston at Christian & Small LLP, 505 20<sup>th</sup> Street North, Suite 1800, Birmingham, AL 35203, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.** The said party agrees to pay all reasonable expenses incurred by you at the aforementioned time and place or upon receipt of said documents. Please inform us if the reasonable copying cost will be over \$100.00.

**Protection of Persons Subject to Subpoenas:**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection of and copying at any time before the time specified for compliance may serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein, means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a non-resident of this state who is not a party or an officer of a party to travel to a place within the state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provisions of Clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

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development, or commercial information, or

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    - (A) The party requesting such information has made a good faith attempt to provide written notice to the individual ...;
    - (B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and
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**Duties in Responding to Subpoena:**

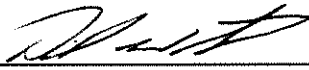
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\_\_\_\_\_  
By: David B. Walston  
Attorney for Defendants

OF COUNSEL:

CHRISTIAN & SMALL LLP  
505 20TH STREET NORTH  
SUITE 1800 FINANCIAL CENTER  
BIRMINGHAM AL 35203-2696  
Telephone: (205) 795-6588  
Facsimile: (205) 328-7234

\_\_\_\_\_  
Clerk of this Court

By \_\_\_\_\_  
Deputy Clerk

RETURN ON SERVICE: Received this subpoena on the \_\_\_\_ day of \_\_\_\_\_, 2008, and served it on the within named \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
PROCESS SERVER

cc: David R. Arendall, Esq.  
Arendall & Associates  
2018 Morris Avenue  
Birmingham, AL 35203